



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes Regular Land Board Meeting May 8, 2001

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 8, 2001 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable State Controller J. D. Williams
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

Attorney General Lance participated in the meeting via conference phone.

• **CONSENT AGENDA**

Acting Director Wiggins provided background information on the Consent Agenda items.

Superintendent Howard requested that Agenda Item #12 be moved from the Consent Agenda to the Regular Agenda. No objection was voiced.

A motion was made by Controller Williams to approve the Consent Agenda, with Agenda Item #12 being moved to the Regular Agenda. Attorney General Lance seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

1. Director's Report – approved

- A. Interest Rate Report – March – April 2001
- B. Bureau of Minerals Official Transactions – March 2001
- C. Timber Sale Official Transactions: February 22, 2001 through March 28, 2001; March 29, 2001 through April 20, 2001
- D. Bureau of Real Estate, Land Sale Section, Official Transactions – February – March 2001
- E. Bureau of Real Estate, Easement Section, Official Transactions – February – March 2001
- F. Bureau of Range Management and Surface Leasing Official Transactions – March – April 2001
- G. Timber Sale Activity Report
- H. Department of Lands Financial Summary – February – March 2001
- I. Tussock Moth

2. Timber Sales – Staffed by Bob Helmer, Acting Chief, Bureau of Forest Management – approved

- | | | |
|--------------|--------------------|---------------------|
| A. CR-1-0312 | Fentons Cougar | 2,700 MBF |
| B. CR-1-0320 | North Resurrection | 3,300 MBF |
| C. CR-1-0321 | Mid Jungle | 2,400 MBF |
| D. CR-2-0204 | White Creek Poles | 330 MBF & 63,940 LF |

| | | | |
|----|-----------|---------------------------|------------------------|
| E. | CR-2-0221 | Prater Mountain | 2,900 MBF |
| F. | CR-3-0444 | No-See-Um Pole | 4,720 MBF & 227,435 LF |
| G. | CR-3-0473 | Lost World | 5,355 MBF |
| H. | CR-4-0725 | Little Sand Creek Salvage | 2,140 MBF |
| I. | CR-5-0084 | Pinehurting | 2,830 MBF |
| J. | CR-5-0091 | Indian Mountain | 3,235 MBF |
| K. | CR-4-0719 | Lolo Breaks | 2,415 MBF |
| L. | CR-4-0721 | Browns Mountain | 3,675 MBF |

3. Application for Qualified Bidders List, Timber Sales – Staffed by Bob Helmer, Acting Chief, Bureau of Forest Management – **approved**

- A. Tim Bendickson, 29703 Highway 57, Priest River, ID 83856
- B. Roman Logging, Inc., 11385 West Prairie Avenue, Post Falls, ID 83854
- C. Progressive Logging, Inc., 10 Willow Lane, Trout Creek, MT 59874
- D. Stubbs Logging, Inc., 1175 Lyon Road, Moscow, ID 83843
- E. Brent Ottosen Logging, 18411 South Coho Road, Worley, ID 83876
- F. Miller and Wuennecke Logging, Post Office Box 251, Priest River, ID 83856
- G. DeMers Logging, 1168 Deer Ridge Road, Sandpoint, ID 83864
- H. JAG, Inc., Route 1 Box 518, Bonners Ferry, ID 83805

4. Annual Deferred Road Maintenance Plan – Staffed by Ron Litz, Acting Assistant Director, Forestry and Fire – **approved**

DEPARTMENT RECOMMENDATION: Direct the department to proceed with the proposed road maintenance.

BOARD ACTION: Approved.

5. Additions to Declaration Zone of Infestation – Douglas-fir Tussock Moth – Staffed by Ladd Livingston, Supervisor, Forest Insect and Disease – **approved**

DEPARTMENT RECOMMENDATION: Declare the addition of parcels to the existing zone of Douglas-fir tussock moth infestation.

BOARD ACTION: Approved.

6. Cottage Site Valuation Appeal, Miller – Staffed by Alvin Carr, Leasing Specialist – **approved**

DEPARTMENT RECOMMENDATION: That the board direct the department to acquire an MAI appraisal of the Miller's leased lot prior to the appeal being heard by the board.

BOARD ACTION: Approved.

7. Final Approval Bannock 800 Land Exchange – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – **approved**

DEPARTMENT RECOMMENDATION: Direct the department to complete the exchange involving the Bannock 800 property and the disposal of the Lakeview Village, Whitesel parcel, Warren Wagon and cottage site endowment properties based on an exchange value of \$5,295,000.

BOARD ACTION: Approved.

8. Proposed Sale Abandoned Railroad Right-of-Way – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the department to offer the 1.25 acres for sale at public auction with a minimum bid of \$875.00. Purchaser will be required to pay appraisal, certificate, deed and recording fees along with advertising costs in two (2) newspapers.

BOARD ACTION: Approved.

9. Blackfoot River WMA – Reclassification of Fish & Game Lease – Staffed by Tracy Behrens, Range Management Specialist – approved

DEPARTMENT RECOMMENDATION: That the department be directed to reclassify the lands in grazing lease G-9620 from General Management-Range Grazing to Special Management-Wildlife Habitat/Grazing and issue a miscellaneous lease for ten (10) years to Idaho Fish and Game.

BOARD ACTION: Approved.

10. Magic Valley Sand and Gravel – Staffed by Scott Nichols, Chief, Bureau of Minerals – approved

DEPARTMENT RECOMMENDATION: That the board approve the application to renew Mineral Lease No. 8383 subject to required stipulations.

BOARD ACTION: Approved.

11. Application for Dredge/Placer Permits – Staffed by Scott Nichols, Chief, Bureau of Minerals – approved

- A. Permit No. 317, Emerald Creek Garnet, Ltd., Post Office Box 190, Fernwood, ID 83830
- B. Permit No. 318, Emerald Creek Garnet, Ltd., Post Office Box 190, Fernwood, ID 83830

DEPARTMENT RECOMMENDATION: Approve issuance of the permit subject to adherence to the plan submitted in the application, submission of the required bond and compliance with the Rules Governing Dredge and Placer Mining Operations in Idaho.

BOARD ACTION: Approved.

12. Final Approval Waterloo Land Exchange – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – **DEFERRED**

DEPARTMENT RECOMMENDATION: Direct the department to complete the exchange involving the Waterloo property and the state cottage site endowment property.

DISCUSSION: Dr. Howard requested that this item be moved to the regular agenda because this lot was not part of the board's Ponderosa Park land exchanges. Dr. Howard asked how this type of exchange would affect the long range-view. Cottage sites are a volatile issue for the board. Dr. Howard stated that she no longer sees a compelling need to complete this type of trade.

Governor Kempthorne observed that this item needs further discussion to make sure the board fully understands all of the implications. Therefore, with no objections being voiced, Governor Kempthorne deferred this agenda item until the next Land Board meeting.

BOARD ACTION: This agenda item was deferred.

13. Timber License Plate Fee Recommendations – *By Betty Munis, Director, Idaho Forest Products Commission* – **approved**

DEPARTMENT RECOMMENDATION: Educational projects are recommended by the Idaho Forest Products Commission and the Idaho Department of Lands to be supported by Timber License Plate Fees as authorized in Section 49-417A, Idaho Code. The total License Fee Appropriation request is for \$36,500.00.

BOARD ACTION: Approved.

14. Minutes – **approved**

A. Regular Land Board Meeting – March 13, 2001

• **REGULAR AGENDA**

15. Endowment Fund Investment Board Manager's Report – *Presented by Charles G. Saums, Manager of Investments*

Mr. Saums advised the board that a new page was included with his report. The new page is part of a comprehensive report developed by Bob Maynard in conjunction with the Governor's committee. With approval, the board would receive the new four-page report on a monthly basis. The report's first page shows consolidated assets of the land trust and financial assets. The next two pages would be the land asset and financial asset reports. The fourth page would reflect verbal text covering the highlights. With the board's approval, Sutro and Company will present the report on a monthly basis. Sutro will look at the numbers for all entities, or the Endowment Trust as a whole, and will make a report from that standpoint.

At their last meeting, the Endowment Fund Investment Board decided to have QInsight review all of the numbers and to make a new simulation model. QInsight's report should be available for the June Land Board meeting.

Earnings Reserve projections are still on target. Enough money is available to provide a comfort factor that beneficiaries will be paid through February 2002.

Highlights for the month of April are that the market rebounded substantially. Approximately \$45 million was gained in market value, primarily equities. The market has been up and down the first part of May but the Fund is still on the plus side.

DISCUSSION:

Report format suggestions:

- Controller Williams suggested that a one-page summary be included with the report. The summary should show the anticipated balance at the end of the fiscal year, along with possible losses or gains.
- Governor Kempthorne suggested that if the board comes to agreement on a particular format, Mr. Saums could use a one-month lag time for the report figures and could provide up-to-date numbers to the board on the Land Board meeting date.
- Attorney General Lance concurred with the idea of a single sheet summary. In addition, he suggested that it would be helpful to have the prior year's figures, year-to-date figures and then the current monthly figures. He also requested that the Dow Jones Industrial average and the NASDAQ average be included. Adding the additional information would allow the board to see how the Fund is doing compared to the entire market structure.

Controller Williams commented that the overall investment direction was 70% equity and 30% debt. He asked if there is some way that the board can keep the 70-30 but change the mix. Mr. Saums responded that any changes deemed necessary could be made. However, the managers and the mix were picked for the long term. If managers are moved and allocations are changed then all of the history that has been learned, along with the mix of managers, is basically thrown out. Managers were chosen on a five-year history so to make changes because of a two-month or three-month performance number would throw everything off balance. A 3-5-10-year performance history was used for selecting the managers. Adjustments for performances based over a short time are generally not made.

Dr. Howard asked if a downturn in the market was taken into consideration in the timber projections. Mr. Saums responded that some adjustments have been made. QInsight will also be looking into the timber projection numbers. Acting Director Wiggins commented that prices bid on timber sales today are down. However that downturn only puts timber into the pipeline and there is typically a year and a half to two year lag before a lot of that timber moves. Right now the department is operating off of a supply of timber that was sold approximately two or three years ago, when prices were a little bit better. The difference seen between actual in these five months and projected is more related to the timing of the harvest because June through December are typically two-thirds to 70% of the department's harvest in a calendar year. But new projections have been made based on the dynamics of the timber market. It is anticipated that there will be a drop off over the next few years as far as how much money will come in from timber sales. Original projections are being refined to make sure that the department is reasonable in its approach.

Secretary of State Cenarrusa asked if Canadian imports would have any effect on projections. Acting Director Wiggins stated that imports of any kind would impact the value of timber that is sold locally. A more difficult question is how much that impact would be.

BOARD ACTION: No action was taken on this agenda item.

16. Annual Timber Sales Plan – *Presented by Ron Litz, Acting Assistant Director, Forestry and Fire*

DEPARTMENT RECOMMENDATION: (1) Adopt the annual harvest recommendations for the Priest Lake, Pend Oreille and Clearwater Supervisory Areas until the next inventory re-measurement; (2) direct the department to proceed with the publication of the FY-2002 Timber Sales Plan.

DISCUSSION: Governor Kempthorne asked how the total proposed volume compares with the last number of years. Mr. Litz stated that the department has been at 165 million board feet for the last two years, through fiscal year 2000 and 2001. The current plan will jump the figure to 173 million board feet for fiscal year 2002. The department is proposing 183 million board feet for fiscal year 2003. The 2003 figure is a preliminary figure because the department will re-inventory the St. Joe Supervisory Area this summer. Re-measurements and recommendations will be presented when the department comes back to the board in April 2002. Figures are based on the current analysis of growth.

Controller Williams commented that the Mason, Bruce and Girard study has created a lot of interest because the state is looking at a sustainable harvest over a period of time. Some comments may be that in the past the department has not put a whole lot of pressure on income because the money has gone into the endowment. Whether you harvest a tree this year or next year really does not make a difference because it is all part of the portfolio.

But now the department has gone into a new management plan where it is coordinating with the endowment. This year most of the cash that has gone to public schools has come from the reserve and from timber sales. Income derived from trees is more important now because a big chunk of that money will go into existing obligations and the endowment fund will pull the interest.

Controller Williams asked about the possibility of the department setting up two or three best management models on state endowment lands and to then pilot those models for a period of time.

He mentioned Riley Creek as an example of a company using this type of management. Mr. Litz responded that the new integrated management system incorporates economics into the analysis. The department is now able to look at the financial impacts on growth and whether adjustments should be made on the timing of harvests. As the timber staff learns to use this model they will be able to bring more of that information back to the board and will be able to make recommendations on what should be done and what the impacts on the forests will be.

Mr. Litz stated that the department currently has several pilot-type activities on the forests. The department does a vast array of silvicultural treatments. The one stumbling block with uneven age management, especially in north Idaho, is that it favors the cedar, hemlock and the grand fir. When those species are favored, they tend to disfavor the white pine, ponderosa pine, the Douglas-fir and the larch. The forests have migrated toward more tolerant species, such as the cedar, hemlock and grand fir. That factor has created a lot of the forest health problems and is one reason why those stands need thinning. The department can go ahead and cut it in stages, as Riley Creek is doing. Basically different age levels would be created. Even though there may be four different age groups in the forest, each age group is managed separately.

Dr. Howard concurred with Controller Williams that the board should take a long-term view of what the forest will look like in the future. The forest can be managed for its health as well as for income. Dr. Howard observed that it appears in a sense that the forest is being harvested beyond growth in some areas and there can be a reason for that at this time. One of the effects of harvesting beyond growth would be an expectation that at some time the harvest would be cut back to a sustainable level. Very often when a decision is made to cut things back there is a certain outcry about the cut. Dr. Howard suggested that it would seem sensible to try to project more into the future to show that there would be a clear intention of cutting back to a sustainable level. Should that outcry about the cut occur the board and the department would be able to point to that projection and say that the cut is part of the overall plan and that it is being done for a purpose. Otherwise Dr. Howard believes that there could be pressures in the future to make sure that the revenue stream comes in and that pressure could come at the expense of a good long-term management plan for the forest.

Mr. Litz stated that the department has projected out over 100 years. Right now, state lands have a lot of over mature stands. The Priest Lake area, for example, is currently experiencing a negative growth. Some stands are dying faster than any growth that is occurring. When those trees are harvested and replaced with vigorous younger growing stands, the forest goes from a negative growth rate up to anywhere from 750 to 1000 board feet per acre per year. The new growth model actually tells the department what can be anticipated on these sites in the future and it plugs in the higher growth levels. Also when other enhancements are included – pre-commercial thinning and fertilizations, etc. – the forest should grow more per acre than the present. Mr. Litz stated that he is confident that a drastic reduction will not be seen in the forest. Over time individual reductions may be seen due to age class distribution fluctuations.

Governor Kempthorne commented that Mr. Litz had brought up a good point. As volume is increased, the mills will gear up for the increased volume. Based on the department's projection, if we know that five years from now the volume would be reduced, in all likelihood that reduction would suggest layoffs at some of the mills. To the greatest extent possible, we need to make sure that people understand that the projected reduction in volume should be figured into their business plans.

Governor Kempthorne asked Mr. Litz about the ponderosa pine. He has a sense that the state is losing some of its ponderosa pine stands and that different species of more aggressive trees are coming in. Mr. Litz stated that is correct in the southern part of the state. The ponderosa pine was a very minor component in the northern forest. At the present time the department is striving to replace the ponderosa pine back into the ecosystem.

Controller Williams suggested that the board consider a field trip to the Priest Lake area this summer. A field trip would allow the board to take a look at the area and would also allow the department to educate the board about the area. Mr. Litz stated that a field trip by the board would be welcome. He

stated that the Priest Lake Area office staff does a “bang up job out there.” He feels that the staff can do a lot more on those sites and still keep the viewshed. Acting Director Wiggins concurred. He stated that the Priest Lake area has had a management policy in place for many years that keeps the visual impacts from the lake to a minimum. The new yield model will also tell the department how much that viewshed costs because it does cost money in order to keep that balance.

In reviewing the proposal, Governor Kempthorne suggested that the department in the future show the whole picture with the bottom line. He suggested two columns to show current information and new information. Then the board would be able to see at a glance which areas have increased or decreased volumes and which areas have stayed the same.

Secretary of State Cenarrusa commented that this annual timber sales plan really demonstrates how much better management is on state forests as opposed to national forests. Governor Kempthorne observed that the ratio is for every 1 acre of forest on state land there are 20 acres of forest on federal land and yet with a 20-1 ratio we are having more board feet come off of that state land than all of the federal land combined. Governor Kempthorne believes that the state is reducing the fuel load to the benefit of the forest and he believes devastating fires on federal land will continue, which certainly can impact state lands. He stated that the current situation affirms the efforts of the Federal lands Task Force.

Dr. Howard acknowledged that there are quite a few pages of references for this particular discussion. Included in the references are letters from people who are concerned about water quality, habitat, about the land and how the land is being maintained. Along with the letters are responses from the Department of Lands acknowledging the people's concerns and addressing what really is being done to make sure that everything is done well. Dr. Howard stated that this is a science that is deeper than people have realized in the past. When the next group of school kids go out, they are going to have to understand a lot of environmental issues, associated water quality issues, soil types, etc., that we might not necessarily have thought of in the past. Dr. Howard expressed her appreciation for all of the issues being addressed thoroughly.

BOARD ACTION: A motion was made by Controller Williams to direct the department to adopt the annual harvest recommendations for the Priest Lake, Pend Oreille and Clearwater Supervisory Areas until the next inventory re-measurement and to direct the department to proceed with publication of the Annual FY-2002 Timber Sales Plan. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

17. Sulphur Creek Livestock Appeal of Cancelled Grazing Lease G-9503 – Staffed by Tracy Behrens, Range Management Specialist; Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals

DEPARTMENT RECOMMENDATION: That the board affirm the cancellation of grazing lease G-9503 and direct the department to: (1) conduct an inventory during the 2001 field season to determine if bull trout exist on the lease area; (2) if bull trout are found, revise the management plan as needed to address bull trout concerns; (3) offer a grazing lease, subject to the management plan, at auction in the fall of 2001 with a lease term beginning January 2002.

DISCUSSION: Attorney General Lance asked if the lessee had been notified of the eight alleged violations. Assistant Director Biladeau stated that quite a bit of correspondence went back and forth between the department and the lessee. The department feels that the lessee had notification of the problems and what was expected of him.

Governor Kempthorne referenced a letter from the Snook Law Office. The letter stated, for example, that the department was to provide seed in the years referenced and had not done so. The letter talks about the costs to the lessee for fencing and spraying in the amount of \$30,000. The Governor asked Mr. Biladeau for his response on behalf of the department.

Mr. Biladeau stated that the plan called for the lessee to build several miles of fence. The department provided the materials for that fence. The department also identified some spraying and seeding opportunities. However, the department could not spray or seed: (1) until the plan was in place, (2) until the fence was completed, (3) until the department had run through the plan and (4) until the lessee was following the rotation within the pastures.

In 1998 the department did talk with Mr. Whitworth about spraying. The permit was written that the lessee would bare the cost. The department would then identify that cost as an improvement credit. However, because of the department's concerns with this allotment, and the non-compliance seen there, the department felt that it was not in a position to spray or seed at that time.

The lessee stated that he has done some work on his private lands. The department does not know the extent of that work. Some opportunities were identified within the plan where the lessee could spray on private lands. If this client is up and running and following the plan the department would coordinate with the Department of Fish and Game to revisit spraying and seeding.

Again referring to the letter from the Snook Law Office, Governor Kempthorne commented that the letter states that the only riparian areas are on private land and on the lessee's ditch bank. Mr. Biladeau stated that there are a couple of creeks that have riparian areas on state lands. There are also several diversions (ditches) but that the state is only looking at the creeks.

Secretary of State Cenarrusa asked if the creeks on state land go dry. Mr. Biladeau responded that some of the creeks do but that there are some main streams with riparian areas that have water season long. Those are the creeks where there is a bull trout concern.

Secretary of State Cenarrusa asked if the department has a history of this allotment prior to 1995 to show how it was operated. Mr. Biladeau stated that without a plan in place, along with pasture fences, it was turn out at a certain date and bring in at a certain date, based on the BLM permit.

Secretary of State Cenarrusa asked if the department has any record of violations prior to 1995. Mr. Biladeau stated that because there was not a plan in place, no record exists. The department's emphasis is from the time that the pasture rotation system was put in place, which was 1998, to the present.

To clarify, Dr. Howard stated that once the department had criteria against which to measure, it has been measuring against that criteria. Once expectations were established, the department has been measuring against those expectations. Mr. Biladeau stated that is correct.

Controller Williams commented that this is an interesting case. The land was acquired in 1990 through an exchange. Although this is not a huge operation, it apparently is a big part of this lessee's operation. Rest rotation is by far the best management plan. In 1998 fences were built. At least one fence was not built to specifications but it was fixed.

There is a question as to whether bull trout exists on the allotment. Controller Williams asked if the allotment was managed as though bull trout were present during this final year of the lease, with particular attention being paid to the riparian areas, could the lease be re-instated with an understanding that should any violation occur, the lessee would be immediately removed from the allotment.

Mr. Biladeau responded that if the lessee followed the particular plan that is in place, the allotment would be fine from a bull trout or other concern. The department would work with Fish and Game on the bull trout issue. The dryness of this year may be a factor.

Dr. Howard commented that the board is a board of second chances. Information from 1998, 1999 and 2000 has been provided to the board showing a history of three years of second, third, fourth and fifth chances. Dr. Howard asked at what point does the board stop giving these chances. Dr. Howard feels the lessee shows a lack of responsibility. She stated she does not see responsible

behavior in terms of turning the stock out at appointed times and taking stock off at appointed times. Dr. Howard stated her feelings on this issue go back to her own history. She stated it was a point of pride in her family that the rules were followed. It is a matter of respect for the agencies, respect for the land and a responsibility to follow guidelines. Dr. Howard stated she also sees a lack of response to repeated communications from the department. Telephone calls were not returned, plans were made and then not followed. The question is when does the board stop. The department has taken an action and the board is to determine whether or not we are going to stay that action. It takes a huge amount of time from the department for one grazing lease to try to get someone to comply. She feels that this lessee has been given enough chances.

Secretary Cenarrusa stated that not all communications were made in a manner that the operator actually received the message. As an example, Secretary Cenarrusa stated that Mr. Whitworth, not receiving notification that the April Land Board meeting had been cancelled, traveled to Boise. He questioned the manner by which the department handled communications with the lessee. He asked if the department had any proof of their meeting cancellation notification to Mr. Whitworth. Mr. Biladeau stated that the department immediately called the lessee and left a message on his telephone answering machine. That message was followed up by a letter from the department. The department feels they did all they could do to notify the lessee of the meeting cancellation. The department feels that the responsibility goes both ways.

Secretary Cenarrusa questioned why it has taken so long for this matter to be brought before the board. The letter advising Mr. Whitworth of the lease cancellation was written by the director in October 2000. He asked why this is being discussed now on the eve of turnout of the livestock. Secretary Cenarrusa feels that the department has not operated expeditiously. Mr. Biladeau agreed that the timing of this action is difficult. The Management Plan has the flexibility to go out early or to come off later but in order to take those actions the department has to have communication with the lessee.

Dr. Howard reconfirmed that the lease was cancelled on October 13, 2000. She believes Sulphur Creek has had ample time to create another plan. If they did not pursue another plan she feels they are betting against the decision of the board.

| |
|---|
| AUDIENCE WITH THE BOARD: Mr. Judd Whitworth |
|---|

Mr. Whitworth. Mr. Whitworth stated that he has had cattle on the allotment since 1985. In the past he worked with Jim Wood from the department. Mr. Wood developed the management plan and Mr. Whitworth felt that it helped the allotment so he agreed to the plan. Mr. Whitworth stated he built all of the fences and put in a cattle guard. He sprayed and reseeded the private ground outside the private fencing. He stated that in 1998 the department was to furnish seed and do brush control. Mr. Whitworth was to do the seeding. About that time Jim Wood retired. Mr. Whitworth stated he never received any brush control. Mr. Whitworth then traveled to see Lou Benedick in the department's Idaho Falls office. He was told that the office was short staffed and that the department would try to get something going. Mr. Whitworth stated he never saw anyone from the department come out.

Controller Williams asked Mr. Whitworth if he received the lease, would he do everything required, including follow the management plan. Would Mr. Whitworth be willing to pull the cattle off of the allotment if there is a violation and also would he be willing to take a reduction in numbers this year during a transition year. Mr. Whitworth stated he would if necessary to make it work.

Governor Kempthorne stated his concern is that for three years there were efforts by the department to seek compliance with the management plan. If the board ignores the management plan and says that there are no consequences if the management plan is not adhered to, the board puts itself in jeopardy at some future date when it awards the bid to someone who is not the highest bid. He asked Mr. Whitworth if he agreed with the management plan as written. Mr. Whitworth stated that he helped write the management plan. Governor Kempthorne expressed concern that the management plan was not implemented. He asked Mr. Whitworth if he would be comfortable if the action from the

board stated that the department, if one violation was found, would cancel the lease immediately and that action would have the full backing of the board. Mr. Whitworth stated that he would be comfortable with that option.

Attorney General Lance stated that he tended to be in agreement with Dr. Howard. In putting himself in the position of looking at this as if it was his private property, he asked himself if he would want to approach the litigation that is pending on this property that may have serious negative impacts in terms of its future value to the people of the State of Idaho with a business partner who has a propensity to ignore what he or she has agreed to do in the past. He feels he would not be able to vote to forgive the documented violations.

Secretary Cenarrusa stated that he can not vote to put a rancher out of business. He asked Mr. Whitworth if he could live with a 25% reduction in numbers for the remaining year of the lease. Mr. Whitworth stated he could. Secretary Cenarrusa stated if there are gross violations then the department would have just cause to cancel the permit giving Mr. Whitworth reasonable time to remove his cattle. Controller Williams asked Mr. Cenarrusa if his motion would include that there would have to be a total adherence to the management plan and that any violation would lead to an eviction from the leased property. Secretary Cenarrusa stated yes.

Dr. Howard responded to the words "putting a rancher out of business." Dr. Howard feels all of the Land Board members are supporters of ranching. Ranching is an important part of Idaho's economic base. But Dr. Howard does not feel a personal responsibility in this case because of the history of personal responsibility that was not met by the lessee. Dr. Howard believes that people can put themselves out of business by not following guidelines. If the board sets up expectations and operates in a way that asks for adherence then the board must follow through and be consistent. Dr. Howard stated that she is sticking by her previous opinion that a history has been shown here. It is a message that this board expects people to adhere to expectations. Dr. Howard hopes that people who apply for leases in the future not only set up plans but that they also follow through on those plans.

BOARD ACTION: A motion was made by Secretary of State Cenarrusa to allow Mr. Whitworth to retain his lease for the last year remaining on the lease. Mr. Whitworth will reduce the AUM allotment by twenty-five percent. The department and Mr. Whitworth will follow the management plan to the letter. If the department at any time during this remaining year determines that there has been a violation, the department is empowered by the board to cancel the lease and to have the animals evacuated from the site. Controller Williams seconded the motion. The motion carried on a vote of 3-2, with Secretary of State Cenarrusa, Controller Williams and Governor Kempthorne voting aye. Superintendent Howard and Attorney General Lance voted nay.

- **INFORMATION AGENDA**

Acting Director Wiggins briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

18. Transition Lands Information

19. Grazing Lease Conflict Applications for 2001

Attorney General Lance's participation via conference phone ended at 11:10 a.m.

A motion was made by Secretary of State Cenarrusa to resolve into Executive Session at 11:10 a.m. Controller Williams seconded the motion. The motion carried on a vote of 4-0, with Attorney General Lance being absent for this vote.

- **EXECUTIVE SESSION**

- A. To Consider Personnel Matters, Idaho Code § 67-2345(1)(b)** – *Presented by Winston Wiggins, Acting Director*
- B. To Consider Acquiring an Interest In Real Property Which is Not Owned by a Public Agency, Idaho Code § 67-2345 (1)(c)** – *Presented by Kent Nelson, Deputy Attorney General and Perry A. Whittaker, Chief, Bureau of Real Estate*
- C. To Consider and Advise Its Legal Representatives in Pending Litigation or Where there is a General Public Awareness of Probable Litigation, Idaho Code § 67-2345 (1)(f)** – *Presented by Clive Strong, Deputy Attorney General*

Upon unanimous consent the board resolved back into Regular Session at 11:50 a.m. There being no further business to come before the board, the meeting adjourned at 11:50 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/

Pete T. Cenarrusa
Secretary of State

/s/

Winston A Wiggins
Acting Director